

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Larry L. Hood

Application No.: 09/819,561

Filed: March 27, 2001

METHOD AND APPARATUS FOR
MODIFICATIONS OF VISUAL ACUITY
BY THERMAL MEANS



Examiner: David M. Shay

Art Group: 3739

DECLARATION OF DANIEL DURRIE UNDER 37 C.F.R. §1.132

I, Daniel Durrie, hereby declare that:


1. I am a practicing ophthalmologist. A copy of my Curriculum Vitae is attached as Exhibit A.
2. I have read the above entitled patent application.
3. I have also reviewed U.S. Patent No. 4, 907,586, issued to Bille et al. ("the Bille patent").
4. It is my opinion that Bille does not disclose a technique for denaturing corneal tissue to reshape a cornea. Bille discloses a procedure whereby corneal tissue is either ablated or changed to a semi-liquid form. It is my opinion that this is not "denaturing" tissue in the context of the above entitled application.

5. I reviewed and agree with the following statement that has been provided to the Patent Office by the Applicant to distinguish the claims of the above entitled application from the Bille patent.

"Bille discloses applying a large amount of energy in the range of 10 megawatts to either fully ablate tissue, or modify tissue into a semi-liquid state. The claims recite denaturing tissue not ablating tissue. The claimed process provides enough energy to change the helical tissue structure without creating damage that causes the body to repair the denatured area. Changing the helical structure modifies the refractive power of the cornea. This is to be distinguished from Bille which discloses changing the tissue into a semi-liquid state. The Applicant contends that changing the tissue to a semi-liquid state will cause the body to repair the tissue back to the original state. This will cause regression in the change of refractive power. Bille does not disclose or suggest to merely denature the tissue."

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 8/16/05 2005


Daniel S. Durrie, M.D.



CURRICULUM VITAE
Daniel S. Durrie, M. D.

Personal

Date of Birth: April 30, 1949
Place of Birth: Lincoln, Nebraska
Marital Status: Wife Anne (Trowbridge) Durrie; daughter Erin Durrie Stahl

Home address:

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Shawnee Mission, KS 66208
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Office:

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5520 College Blvd, Suite 201
Overland Park, KS 66211
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Education

BS Chemistry
University of Nebraska
Lincoln, Nebraska
1967 - 1971

MD
University of Nebraska Medical Center
Omaha, Nebraska
1971 - 1975

Ophthalmology Residency

University of Nebraska Medical Center
Omaha, Nebraska
1975 - 1978

Corneal Fellowship

Filkins Eye Consultants
Director - John C. Filkins, M. D.
Omaha, Nebraska
1978-1979

10/3/04

President

Durrie Vision, PA
5520 College Blvd, Suite 201
Overland Park, KS 66211
October 2002 – Present

Licensure

Missouri License	MDR2K67
Kansas License	04-23098

Academic Appointments

Clinical Associate Professor, Ophthalmology, University of Kansas Medical Center,
Kansas City, Kansas
Clinical Assistant Professor, Ophthalmology, University of Missouri at Kansas City
Adjunct Faculty Member, Pennsylvania College of Optometry, Philadelphia
Director, Ophthalmic Refractive Surgery Fellowship Program, 1993 - present
Director, Optometric Refractive Surgery Fellowship Program, 1993 - present

Recognition

The Best Doctors in America (one of 9 Kansas City MD's)
Best Ophthalmologists in America (named by *Ophthalmology*)
America's Top Doctors
Fellow, American Academy of Ophthalmology
Distinguished Lans Lectureship, International Society of Refractive Surgery, 1996
Pioneer in Refractive Surgery, 1999
Certified by Council on Refractive Surgery Quality Assurance, 2001
Barraquer Lecturer, American Academy of Ophthalmology, 2002

Positions

American Society of Cataract and Refractive Surgeons, ESEC Committee, 2001-present
Advisory Board, eSinoMed.com
Board of Directors, American College of Eye Surgeons 1998-present
Board of Directors, International Society of Refractive Surgery 1988-1990; 1996-present
Board of Directors, Eye Bank Association of America 1982-1988
Board of Directors, Clinical Refractive Surgery Quality Assurance, 1999
Editorial Board, Ocular Surgery News, Refractive Surgery Section Leader
Editorial Board, Journal of Corneal and Refractive Surgery
Editorial Board, Review of Ophthalmology
Editorial Board, Refractive Eyecare for Ophthalmologists
ISRK Associate Program Chairman, 1993
Medical Director, Nebraska Lions Eye Bank, 1979-1989
Manuscript Reviewer, Ophthalmology, 1991 - present

Medical Staff Member, St. Luke's Hospital, Children's Mercy Hospital, Trinity Lutheran Hospital, Truman Medical Center
Fellowship Director, Ophthalmology, Hunkeler Eye Clinic, 1993-present
Fellowship Director, Optometry, Hunkeler Eye Clinic, 1993-present
(sole Refractive Surgery Optometry Fellowship in the country)
Prevent Blindness America - Refractive Surgery Task Force - 1996 - present
Member, International Refractive Surgery Club
LASIK Campaign Spokesperson for ASCRS Medical Advisory Board

MEMBERSHIPS

American Academy of Ophthalmology
American Society Cataract and Refractive Surgery
International Society of Refractive Surgery
American College of Eye Surgeons
ARVO
Missouri State Ophthalmological Society
Kansas City Ophthalmology and Otolaryngology
International Intra-Ocular Implant Club

Research

Consultant for:

*Alcon
Bausch & Lomb
Nidek Technology
Refractec
Ophtec
Allergan
PolyVue
Wavetech
CIBAVision
RXVP*

PUBLICATIONS:

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2. Epikeratophakia for Keratoconus: The Nationwide Study. Marguerite B. McDonald, H. E. Kaufman, Daniel S. Durrie, R. H. Keates, D. R. Sanders. Archives of Ophthalmology, 1986; 104 (9); 1294-300.

3. The Nationwide Study of Epikeratophakia for Aphakia in Children. K. S. Morgan, Marguerite McDonald, D. A. Hiles, J. V. Aquavella, Daniel S. Durrie. *The American Journal of Ophthalmology*.
4. The Nationwide Study of Epikeratophakia for Myopia. M. B. McDonald, H. E. Kaufman, J. V. Aquavella, Daniel S. Durrie, D. A. Hiles, J. D. Hunkeler, R. H. Keates, K. S. Morgan, D. R. Sanders, *American Journal of Ophthalmology*, 1987 Mar 15; (103 (3 pt 2) 384-91.
5. The Nationwide Study of epikeratophakia for aphakia in adults. McDonald, MB, Kaufman, HE, Aquavella, JV, Durrie, DS, Hiles, DA, Hunkeler, JD, Keates, RH, Morgan, KS, Sanders, DR. *American Journal of Ophthalmology*, 1987 Mar 15; 103 (3 Pt 2): 358-65.
6. Secondary Intraocular Lens Implantation vs Epikeratophakia for the Treatment of Aphakia. Daniel S. Durrie, T. R. Dietze. *American Journal of Ophthalmology*, 1987 Mar 15; (3 Pt 2): 384-91.
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8. Indications and Treatment of Keratoconus Using Epikeratophakia. T. R. Dietze, Daniel S. Durrie. *Ophthalmology*, 1988 Feb; 95 (2): 236-46.
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Cavanaugh, TB, Durrie, DS., Reidel, SM, Hunkeler, JD, Leshner, MP.
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Vrabec, MP, Durrie, DS, Hunkeler, JD
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42. Corneal Topography of Photorefractive Keratectomy versus Laser In Situ Keratomileusis Hersh, Peter, et al *Ophthalmology*, Volume 105, Number 4, April, 1998.
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